

A manufacturer's rebate that is applied to the purchase price of an automobile is subject to Retailers' Occupation Tax. See 35 ILCS 120/1. (This is a GIL).

February 3, 2000

Dear Xxxxx:

This letter is in response to your letter dated December 23, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

This is a request for clarification of the sales tax regulations and the relationship to a Customer Satisfaction Allowance Certificate received (copy attached) from an automobile manufacturer under the Illinois Lemon Law.

We filed for the Illinois Lemon Law on a vehicle we purchased October 1998. We came to an agreement with COMPANY with a trade-assist. We agreed to the trade-assist for a specific dollar amount of \$1,980 for the replacement vehicle. The ST-556 shows the taxable amount of \$4,718. (copy attached)

The dealership told us the Customer Satisfaction Allowance Certificate must be shown after the tax as a rebate.(see attached bill of sale) Our question, is the Customer Satisfaction Allowance Certificate taxable?

Please provide a written clarification on this matter.

If you have additional questions or if more information is needed, please feel free to call me at #####.

Thanking you in advance.

The New Vehicle Buyer Protection Act is set forth at 815 ILCS 380/1 et seq. Section 3(a) provides that, "[i]f after a reasonable number of attempts the seller is unable to conform the new vehicle to any of its applicable express warranties, the manufacturer shall either provide the consumer with a new vehicle of like model line, if available, or otherwise a comparable motor vehicle as a replacement, or accept the return of the vehicle from the consumer and refund to the consumer the full purchase price or lease cost of the new vehicle, including all collateral charges, less a reasonable allowance for consumer use of the vehicle...." Section 3(g), provides that "[f]or the

purposes of this Act, a manufacturer sells a new vehicle to a consumer when he provides that consumer with a replacement vehicle pursuant to subsection (a).

The situation that you have described is different than the remedies described under the New Vehicle Buyer Protection Act. It appears that the manufacturer gave you an allowance to apply toward the purchase of a new vehicle. You traded in the defective vehicle and applied the manufacturer's allowance to the purchase of a new vehicle. The sale of the new vehicle was subject to sales tax based on the gross receipts from the sale. Under 86 Ill. Adm. Code 130.425 (copy enclosed), the value of, or the credit given for the trade-in would not be counted as gross receipts. Any tax due would be based upon the gross receipts received in payment for the vehicle.

Gross receipts includes all of the receipts that the dealer receives from whatever source. This includes both receipts that are provided by the customer and also any receipts provided by the manufacturer as part of a rebate or allowance program. For example, when a dealer sells an automobile for \$20,000, and takes a trade-in valued at \$10,000, his gross receipts from sale upon which tax must be calculated are \$10,000. It does not matter whether the customer paid the entire \$10,000 or whether the customer paid \$7,000 and a manufacturer paid the remaining \$3,000 under a rebate or allowance program. In both situations, the dealer's gross receipts from the sale are \$10,000 and that is the figure upon which the sales tax calculation must be based. This question was settled in that fashion by the Illinois Supreme Court in *Keystone Chevrolet v. Kirk*, 69 Ill. 2d 483 (1978).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

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Enc.